

concentration (83 ug/M³) detected in the home. The other compounds were present in concentrations that were at least 10,000 times lower than their respective OSHA exposure limits. It was acknowledged in the report that workplace exposure limits are not applicable to a residential setting. The OSHA limits were reported as a comparison basis for what is considered to be safe in the work environment.

The EC report concluded in part that:

"Based on the nature of the specifically identified chemicals, it is suggested that they are not from the window screens. These are relatively common chemicals that may be found in a residence from materials such as paints, cleaning compounds, and pressurized containers. They were all found at very low levels, well below what would generally be considered a health hazard. The levels found were also well below the reported odor thresholds, meaning that on the day sampled, the average person would not be able to smell them."

The report also noted that the screens had been stored in the garage for several months, so that the nature or rate of off-gassed vapors could have changed.

Clayton Environmental Consultants (CEC) Report:

The CEC report consisted of two phases. The first phase involved indoor air quality evaluations in three homes whose residents had submitted a variety of complaints, including foul odors, coughing, allergies, burning eyes, and upper respiratory infections.

Direct-reading measurements of temperature, humidity, respirable particulate matter, and carbon dioxide were made in the three homes. Indoor temperature ranges ($T_{out} = 27-29^{\circ}\text{F}$; $T_{in} = 73.8-78.5^{\circ}\text{F}$) were above the ASHRAE recommended range of $68-74^{\circ}\text{F}$. Relative humidities (19-26%) were below recommended comfort levels. Respirable particulate matter (10-20 ug/M³) and carbon dioxide levels (400-450 parts per million parts of air) were both below maximum recommended levels.

Air samples were collected in each home for inorganic acids, amines, and VOCs. Analytical results for the inorganic acids and amines in the three homes were all below the analytical limit of detection.

VOC samples were collected on Tenax tubes and analyzed by GC/MS. The following compounds were detected in one or more of the homes: benzene, ethylbenzene, styrene, toluene, 1,1,1-trichloroethane, and xylenes. Each of these compounds is common to modern households. Each compound's measured concentration was less than 10 ug/M³; with two exceptions. In one home,

36 ug/M³ of toluene and 300 ug/M³ of 1,1,1-trichloroethane were detected. A list of tentatively identified compounds were present in concentrations ranging from 0.2 - 10 ug/M³.

The USEPA has reported concentrations of hydrocarbons in non-industrial indoor air as follows:

<u>Contaminant</u>	<u>Concentration Range, ug/M³</u>
Aromatic hydrocarbons	21 - 1,100
Aliphatic hydrocarbons	11 - 270

Another paper by B. Siefert that was cited in the study stated that total VOC concentrations indoors greater than 300 ug/M³ are a point of concern to occupants. Total VOC concentrations in one of the three homes tested exceeded this level.

The CEC report on the indoor air quality assessments concluded that the sampling does not clearly indicate that the screen material is the single or even the major contributor.

The second phase of the CEC study involved headspace analyses of samples of screen material by GC/MS at temperatures of 30, 50, and 100 °C. A variety of volatile organics were detected, typically at fractional microgram levels. The highest reported levels were typically ketones, benzene, and phthalates. 1,1,1-trichloroethane was not observed to be a significant emission product from the screens.

CONCLUSIONS

Emissions from polymer coated fiberglass screening material manufactured by Phifer Wire, Inc. have been characterized in three separate studies. Each study used a gas chromatograph/mass spectrometer to separate and identify compounds that were volatilized from samples of the screen material at elevated temperatures. The samples of screen material were at various stages of degradation that were not characterized by any quantifiable scale.

A variety of compounds, represented as peaks on GC/MS output graphs, were observed in the samples. Most peaks were present in such low concentrations that they could not be reliably identified. Compounds emitted from screen samples at high enough concentrations to be specifically identified have shown a fair degree of consistency. Ketones, benzene, and phthalates seem to be the most prevalent emission products during analyses of the screening material. All compounds were emitted at very low levels.

The compounds detected in residences during the indoor air quality studies do not generally match the compounds that were identified during the GC/MS analyses of the screen material. This implies that the screens were probably not the source of the compounds measured, which are typically associated with a variety of products often found and used in homes.

Based upon the data generated in the above studies, an association between identified screen emission products and the types of health effects that have been reported is not evident. Compounds identified during the screen analysis studies, with the exception of benzene, can generally be described as potential irritants at high enough concentrations. As demonstrated by the results of the residential air samples, identified screen emission products were not present in the air at the analytical limits of detection, which are more than 10,000 times lower than levels considered to be safe in industry, where such compounds are routinely encountered.

Degraded or weathered screen material has been observed to have a irritating or penetrating odor. This odor was very noticeable in a sample from which identifiable concentrations could not be captured by airborne sampling. This indicates that the compound(s) responsible for the odor has an extremely low odor threshold.

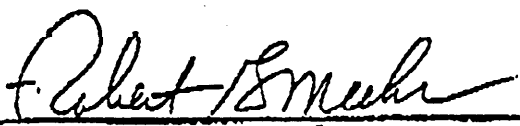
SENT BY: PHILFER WIRE PRODUCTS : 5- 2-93 11:16AM :

2053452120290-

517 496 55951# 2

STATEMENT OF DR. ROBERT G. MEEKS

I was a member of the faculty in the Department of Environmental Health Sciences at the University of Alabama School of Public Health when I supervised research on Philfer Wire Products PVC-coated fiberglass screening. I have reviewed the transcripts of recent television news broadcasts that purported to rely on my findings and conclusions in alerting their listeners to the dangers of "toxic screening" that "emits toxic gasses." The TV broadcasts inaccurately reported my findings and conclusions as well as those of other studies that were referenced in the broadcasts. I specifically advised the reporters who contacted me that it would be inaccurate to say "Philfer screens emit toxic gasses." Nevertheless, that allegation was made in the broadcast reports. My research and the in-home air testing done by Clayton Environmental detected no chemical emissions from Philfer screening at levels that could be considered toxic or hazardous.


Robert G. Meeks, Ph.D.May 3, 1993
Date

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STATEMENT OF DR. CLIFTON D. CRUTCHFIELD

I am a Certified Industrial Hygienist affiliated with Health Effects Group, Inc. of Tucson, Arizona and employed by the University of Arizona.

In November of 1991, I was asked to research the content of emissions from PVC window screen material which I later learned was manufactured by Phifer Wire Products. Health Effects Group, Inc. in a completely independent firm and we were initially contacted and retained by an Arizona screen dealer not affiliated with Phifer Wire Products except as a customer. I submitted my report to this dealer on or about November 25, 1991. Following that report, research was done and reported by at least three other research organizations.

In February of 1993, Phifer Wire Products asked me to review my research data and the data compiled by the other three research facilities and submit an updated summary report on the possible health risk of exposure to Phifer screening. I submitted my final report on April 27, 1993. Phifer Wire authorized me to discuss my findings with any media representative or member of the general public.

In reviewing the transcripts and listening to the videotapes of recent television news broadcasts on the subject about which I conducted this research, I was surprised to hear the allegations that Phifer screening is "toxic" and that it emits "toxic gasses." I was even more surprised to learn that the stations reporting this had been provided copies of my reports and claimed to rely on those reports in reaching their conclusions. None of the research reports in question detected emissions of any substances from Phifer screening at levels considered potentially toxic. The research does not show that Phifer screening emits toxic gasses.

Clifton D. Crutchfield
Clifton D. Crutchfield, Ph.D., C.I.H.

May 3, 1993
Date

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Phifer SunScreen

SPECIFICATIONS

■ Phifer SunScreen is woven vinyl-coated fiberglass screening manufactured for the primary use of reducing solar heat gain in the summer and reducing heat loss in the winter. It also performs as an insect screening.

Standard Colors: Charcoal, Bronze, Dark Bronze, Silver Gray and Gold.

Standard Widths: 24" (60.9cm), 30" (76.2cm), 36" (91.4cm), 48" (121.9cm), 60" (152.4cm), 72" (182.9cm) and 84" (213.4cm). 42" (106.7cm) available in Charcoal only.

Standard Roll Length: 100 linear feet (30.48M)

Mesh in.: 57 Warp, 16 Fill

Mesh Weight: 8.5 (oz./yd²)

Yarn Diameter (in.): .011 Warp, .013 Fill

Fabric Thickness (in.): .019

Openness Factor: Approximately 25%

UV Blockage: Approximately 75%

Breaking Strength (lb.): 190 Warp, 105 Fill

Stiffness (Mg.): 275 Warp, 95 Fill

Stretch: 1.0% Warp, 1.0% Fill

Table I. Solar Heat Control Properties of Phifer SunScreen Fabrics
Installed As Screens, 30-Degree Profile Angle

Color	*Solar Optical Properties				Shading Coefficient w/		
	T _S	R _S	A _S	T _V	1/8CL	1/4CL	1/4H.A.
Silver Gray	24	13	63	26	0.32	0.32	0.30
Dark Bronze	24	9	67	26	0.33	0.32	0.30

Table II. Solar Heat Control Properties of Phifer SunScreen Fabrics
Installed Internally, Zero-Degree Profile Angle

Color	*Solar Optical Properties				Shading Coefficient w/		
	T _S	R _S	A _S	T _V	1/8CL	1/4CL	1/4H.A.
Silver Gray	22	16	62	24	0.70	0.66	0.49
Dark Bronze	24	9	67	26	0.75	0.71	0.52

Performance evaluations conducted by Matrix, Inc., Mesa, Arizona.

*T_S = Solar Transmittance

R_S = Solar Reflectance

A_S = Solar Absorptance

T_V = Visual Transmittance

1/8 CL = 1/8" Clear Glass

1/4 CL = 1/4" Clear Glass

1/4 H.A. = 1/4" Heat Absorbing Glass

The solar optical properties are used to calculate the shading coefficient. The shading coefficient represents the percentage of solar heat gain that is transmitted to the interior through the glass and shading system. Darker colors provide maximum glare reduction and visibility. For complete technical information, test results, performance specifications and larger samples, contact our Sun Control Marketing Department.

P. O. BOX 1700 • TUSCALOOSA, ALABAMA 35403-1700 U.S.A.
PHONE: 205/345-2120 • TOLL FREE 1/800-633-5955
IN CANADA TOLL FREE 1/800-547-8797
FAX: 205/759-4450 • TELEX: 261326 (PHIF UR)

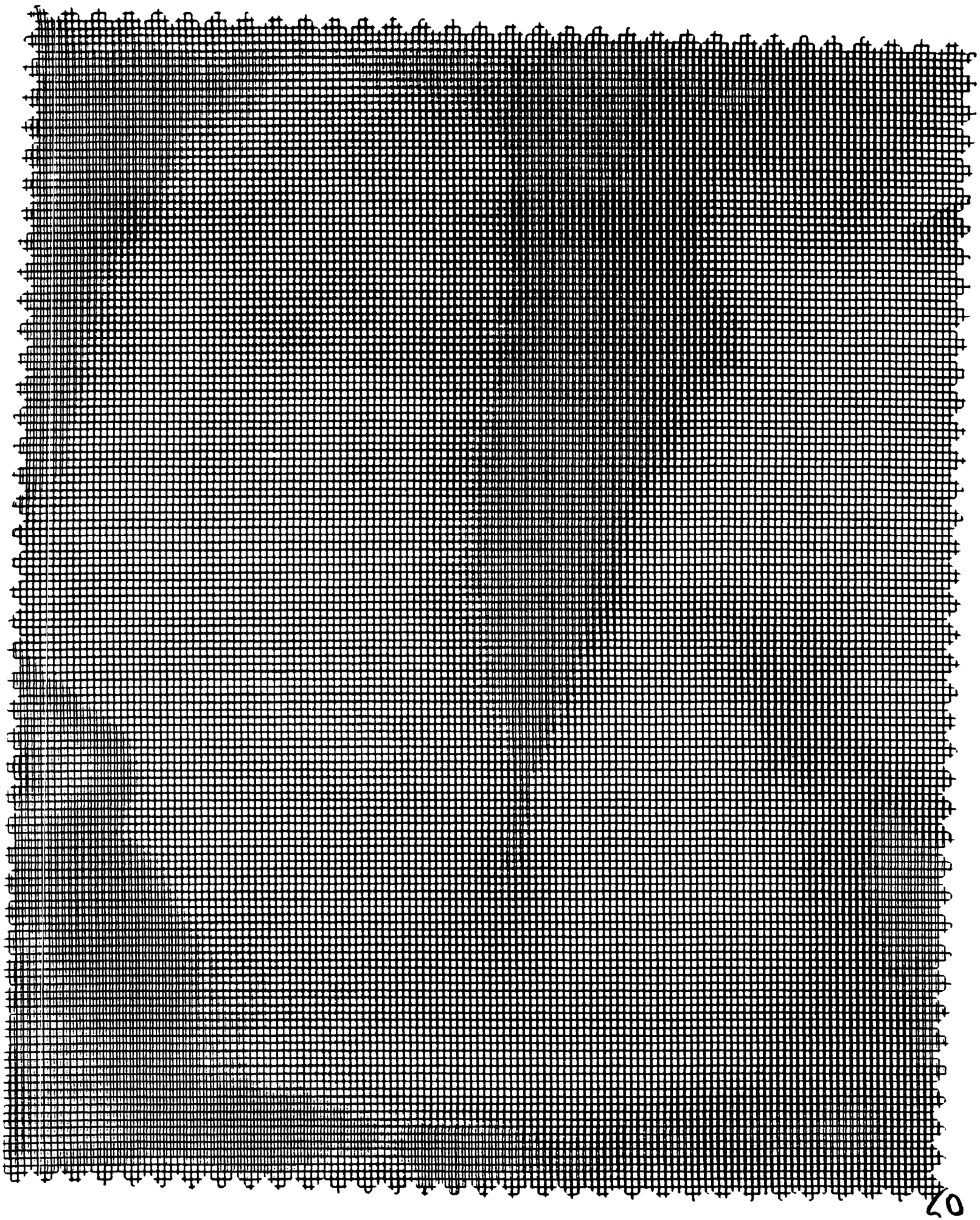


PHIFER WIRE PRODUCTS, INC.
P. O. BOX 1700 • TUSCALOOSA, ALABAMA 35403-1700 U.S.A.

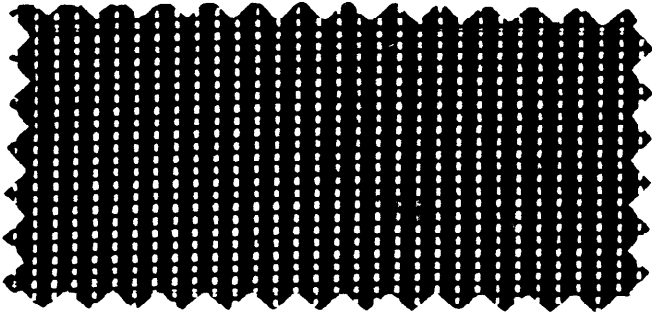
® Phiferglass and SunScreen are registered trademarks of Phifer Wire Products, Inc.
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Presidential "E" Award for Export Excellence
Founded 1952 By REESE PHIFER

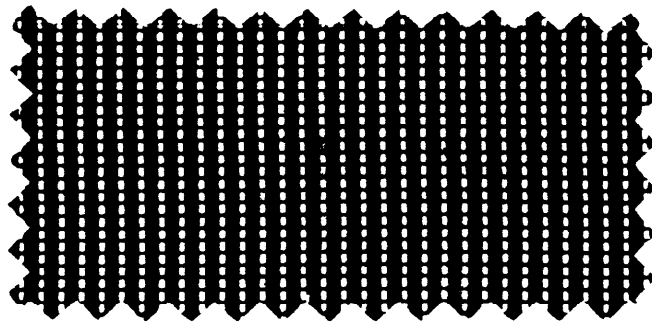
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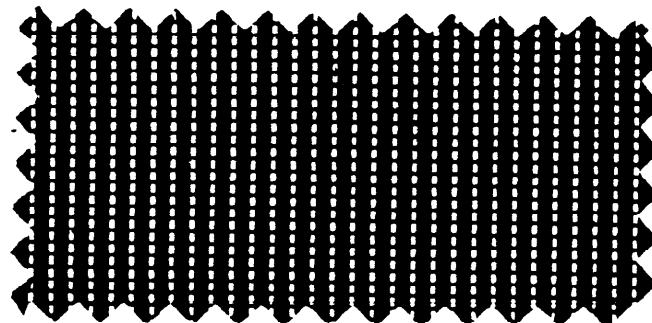
Phifer SunScreen®



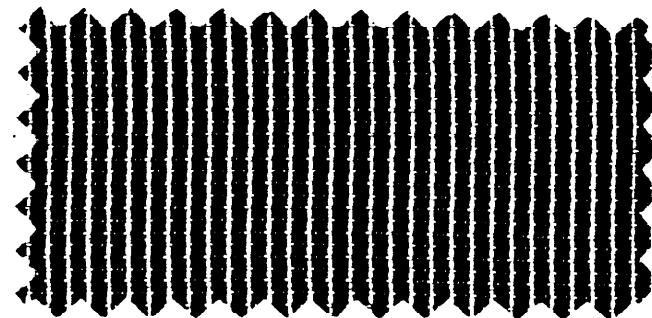
SILVER GRAY



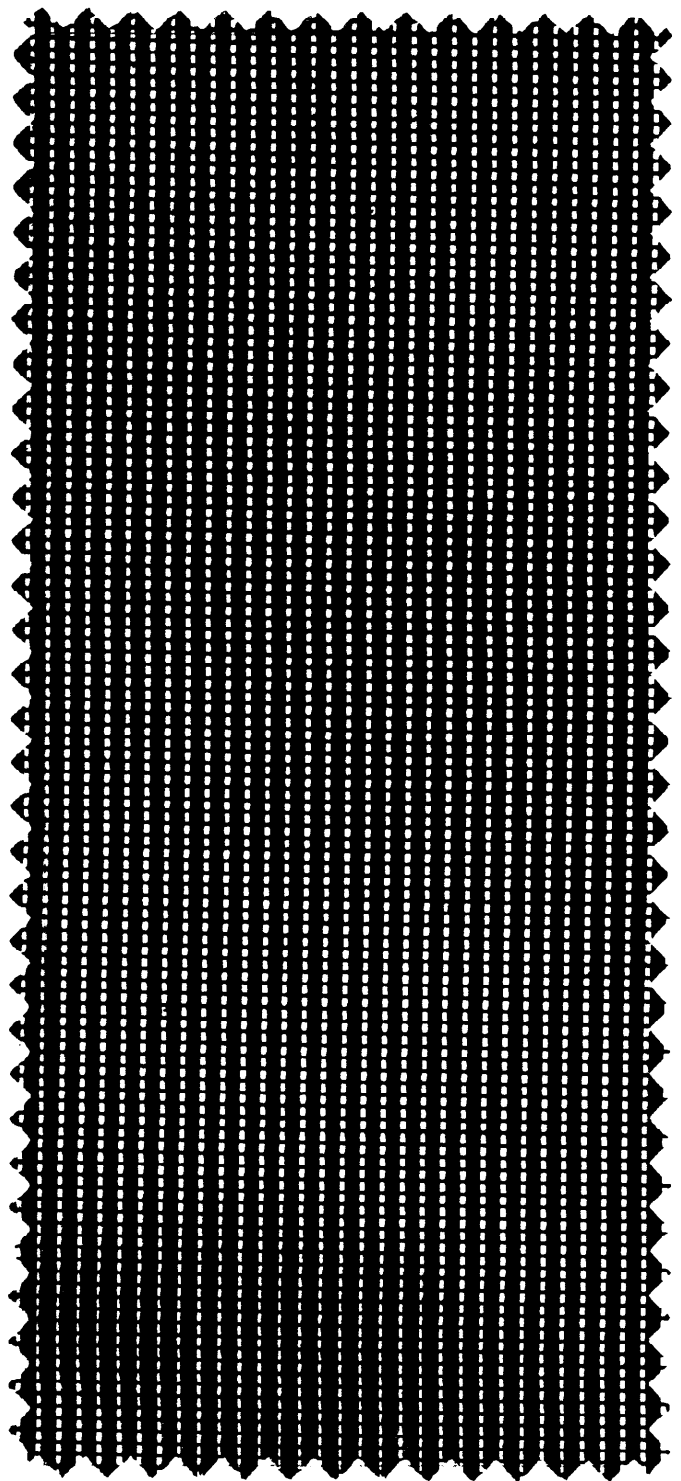
BRONZE



DARK BRONZE



GOLD



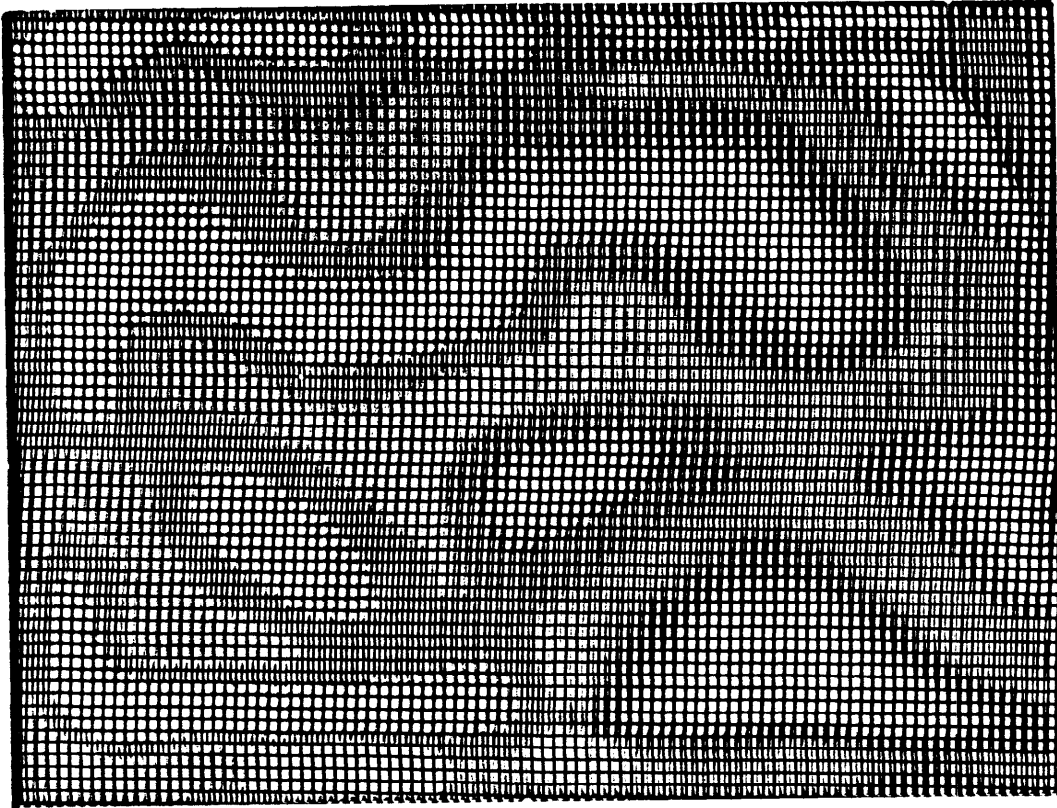
CHARCOAL

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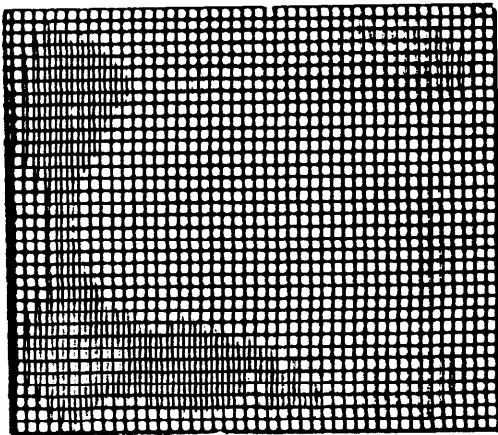
PHIFER *FIBERGLASS INSECT SCREENING*

phiferglass
FIBER GLASS INSECT SCREENING®

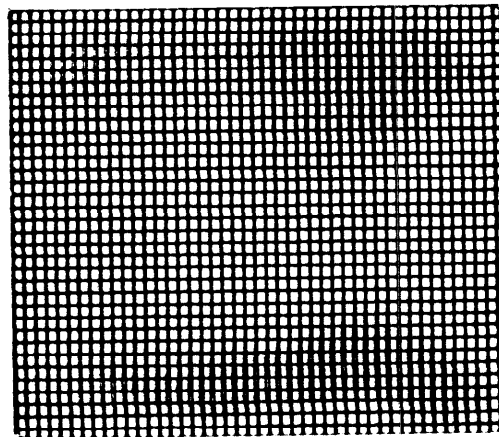
18 × 16 Mesh



CHARCOAL



SILVER GRAY



BRONZE

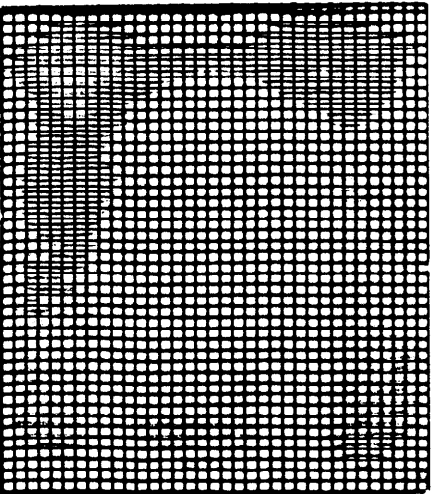
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PHIFER FIBERGLASS INSECT SCREENING

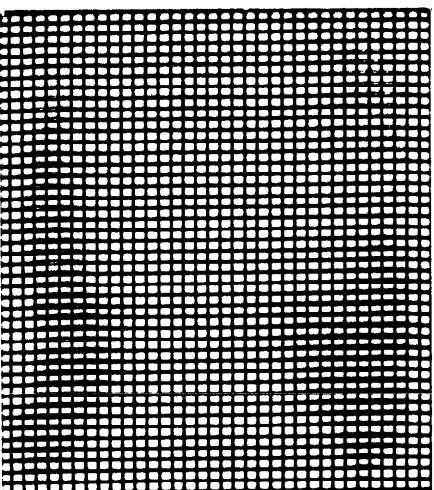
phiferglass 18×16 Mesh
FIBER GLASS INSECT SCREENING®



CHARCOAL



SILVER GRAY



BRONZE



PHIFER WIRE PRODUCTS, INC.

P. O. BOX 1700 • TUSCALOOSA, ALABAMA 35403-1700 U.S.A.

■ CHARLES E. MORGAN
Executive Vice President and Corporate Counsel

June 23, 1993

Mr. Marc J. Schoem
Director
Division of Corrective Actions
U.S. Consumer Product Safety Commission
5401 Westbard Avenue - Room 240
Washington, DC 20207

EXPRESS MAIL
RETURN RECEIPT REQUESTED

Re: CPSC CA930075
Phifer Wire Products
Polymer (PVC) Coated Fiberglass Screening Material

Dear Mr. Schoem:

This is in response to your June 4, 1993 letter addressed to Mr. Anthony Gambel which I received on June 14, 1993. As you requested, I have prepared and enclosed the "Full Report" information specified by 16 C.F.R. §1115.13(d)(1) through (14) and the additional information specified as 15a through 15g beginning on page 2 of your letter.

We do not consent to the release of the information provided herewith. Please note that we received an FOIA request dated April 23, 1993 from Mr. Todd A. Stevenson of the U.S. Consumer Product Safety Commission. With my response, I provided scientific data and wrote that Phifer would not object to disclosure of the information to anyone who might request it. A copy of that letter and my response are enclosed. If the additional information we are providing today can be disclosed (despite our request that it not be disclosed), please protect the confidentiality of all enclosed commercial and financial information (item (3) on page 1 and item (7) on page 2 of "Full Report") which I have marked "CONFIDENTIAL."

In your letter you mention receiving information regarding a product recall by Phifer. We did not recall the product, but we did have and continue to have an aggressive warranty replacement program in response to problems with the appearance of some of the products we manufactured in 1988-89. We were several years into that replacement program when questions were first raised about possible health effects of screen odors. We immediately employed a leading toxicologist to research the question and independent studies were commissioned by persons (a screen dealer and a consumer) who raised the health question. All the research shows that our product, whether brand new or in a defective degraded condition, does not off-gas toxic fumes. Copies of all known research data on this question are enclosed.

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Mr. Marc J. Schoem
June 23, 1993
Page Two

When the health question came up we did consider the possibility of a recall, but determined that it was not justified because of the very low frequency of reports of adverse reactions to the product, the uncertainty of a causal connection between the product and symptoms reported, and the relatively mild nature and short duration of symptoms reported.

As stated in our "Full Report" in reference to §1115.13(d)(11), there were several negative, inaccurate and highly sensationalized news reports on our product. These reports erroneously described our product as "toxic." These broadcasts were repeated for several days at prime news hours in two major media markets. We expected to be inundated with health claims from consumers in those areas but only a small number of complaints has been received. Your own records may support our position - your toll-free telephone number was read and displayed at the end of those sensationalized television reports in Phoenix and Detroit; if our product poses any health risk, you would have received thousands of calls by now.

Following those reports, the scientists who conducted the research upon which the television reports were supposedly based, made themselves available to reporters and health officials to explain their test data. After discussions with these scientists, reporters and officials were apparently convinced that our product poses no health risk because there were no negative follow-up stories or findings by state officials.

If you need additional information, please contact me instead of Mr. Gambel.

Sincerely yours,

PHIFER WIRE PRODUCTS, INC.


Charles Morgan

CM:jh

Enclosures

P.S. The retail product sample packages are being mailed under separate cover with a copy of this letter enclosed.

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of incidents

FULL REPORT

This "Full Report" is submitted by Phifer Wire Products, Inc. pursuant to the U.S. Consumer Product Safety Commission "Substantial Hazard Regulations" 16 C.F.R.-Part 1115.

Re: §1115.13(d)(1): This report is submitted to the Commission by Charles E. Morgan, Executive Vice President and Corporate Counsel for Phifer Wire Products, Inc., P. O. Box 1700, Tuscaloosa, Alabama 35403-1700. Attached is a Delegation of Authority signed by Chief Executive Officer, Beverly C. Phifer.

Re: (2) The product in question is manufactured by Phifer Wire Products, Inc., P. O. Box 1700, Tuscaloosa, Alabama 35403-1700.

Re: (3) The product in question is manufactured and sold in varying forms and colors, primarily under two trademarks, PhiferGlass® insect screening and SunScreen® solar screening, both of which are woven from the same PVC-coated fiberglass yarn.

Phifer does not sell any products directly to consumers. Less than 20% of this product is sold retail and those retail sales are not direct but are through hardware and building materials stores like Home Depot, Ace Hardware, etc. Enclosed are sample retail packages of the product in question. The majority of our sales are to window and door manufacturers and wholesale screening distributors. The retail price of PhiferGlass insect screening varies from 12 to 19¢ per square foot. The SunScreen solar screening retails between 50¢ and \$1.00 per square foot. There are no date codes, serial numbers or identifying marks on the product itself.

Re: (4) The defect, or potential defect, is found in screening material manufactured between January 1, 1988 and July 1, 1989. The problem with that material is that the PVC-coating was not strong enough to prevent the coating from degrading when exposed to high heat and direct sunlight. The result of this degradation is the product changes color and looks bad. Along with the degradation there is an unpleasant odor. Many people do not notice the odor at all; most people who notice the odor find it offensive but experience no physical effects from continuous exposure to it; a very small fraction of consumers exposed to this odor (well below 1%) have reported allergic type reactions to these odors such as headaches, watery eyes and respiratory discomfort. Independent scientists who have analyzed these odors confirm that they are not toxic (see enclosed reports).

Re: (5) No "injury" as such as been reported by anyone using our product. A very small number of people have reported adverse reactions to the odor emitted by the degraded material. Due to the small number of consumers reporting such reactions, it is difficult to generalize as to the nature of these reactions, but they included nausea, sore throat, watery eyes, headaches and lethargy.

Re: (6) In early 1989, about one year after the PVC formula change, we began receiving reports of material that had changed colors and looked bad. Our product warranty on SunScreen (there is no written warranty on PhiferGlass

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insect screening) covers product failure for five years following installation. Prior to 1989, warranty claims were extremely rare. The warranty requires Phifer to replace the failed material, free of charge, but it expressly excludes the installation costs and other consequential costs. Nevertheless, to demonstrate to our customers that Phifer Wire stands behind its products, we have paid the full cost of labor and materials required to replace defective products.

All the warranty claims received in 1989 and 1990, and almost all since 1990, have related to the appearance of the product. The first consumer to allege an adverse physical reaction to the product was Mrs. Carole Chase who telephoned me on October 21, 1991. Since that time, we have received between twelve and twenty allegations of reactions to our product. No causal connection between our product and the various reported symptoms has been established.

Re: (7) Phifer manufactured approximately 900 million square feet of polymer-coated fiberglass screening products (PhiferGlass and SunScreen combined) between 1/1/88 and 7/1/89. To put that figure into perspective, if you assume the average home has about 150 square feet of windows, we made enough screening during these 18 months to fully screen six million homes.

Re: (8) The potentially defective product was manufactured between 1/1/88 and 7/1/89. All of this material had probably been sold by the end of 1989.

Re: (9) It is highly unlikely that any of the potentially defective product remains in the hands of the manufacturer, retailers or distributors. Any product from that period that remains in use today probably degraded and became unserviceable long ago if it was defective.

Re: (10) We strengthened and improved the product, in July 1989, by increasing the level of pigmentation in the PVC formula, thereby making it resistant to heat and UV degradation. In addition to completing in-house laboratory testing, we have the product tested by an independent organization using more realistic outdoor accelerated weathering in Arizona. As long as the product does not degrade, it will not emit the odors that some have found irritating. All new plastic products have a slight "new" smell to them. We have had emissions from our current production material (that using plastisol formula that was improved in July 1989) analyzed by a toxicologist who found no potential dangers in those emissions. A short summary report of those analyses by Dr. Robert G. Meeks is enclosed.

Re: (11) We have provided copies of test reports to all our dealers, distributors, customers and consumers who have expressed interest or concern regarding the odors. Following several very negative, inaccurate and sensationalized television news reports which characterized our product as "toxic" or "deadly," we provided consumers with copies of statements from the toxicologists who did the research in which they refuted the claims of the news reporters that our product is toxic or dangerous. Copies of those statements are enclosed.

Re: (12) Our policy is now and has been for several years that we will replace any defective product reported to us that has been installed since

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1987. When a consumer contacts us, we schedule a time to inspect the screening on his or her home. If the screening is defective, we arrange to have it replaced free of charge by reputable local screen fabricators. In almost every case, the consumer is quite satisfied. If the consumer does not want the bad material replaced, we offer to reimburse full purchase price for the material and installation. The bad material is simply thrown away. We pay distributors a price for warranty screen replacement that more than covers their cost of labor and materials.

Re: (13) Our products reach consumers through a variety of distribution channels. Retail packages like the enclosed samples are sold either directly, or through jobbers or wholesalers, to hardware and building materials stores, who in turn sell them to consumers at retail outlets. Roll goods are sold to screen and window manufacturers and to speciality distributors through both inside sales representatives (salaried Phifer employees) and independent commissioned agents. Screen manufacturers sell to window manufacturers or to building materials companies. Window manufacturers sell their products to building contractors and building materials stores. Distributors stock our roll goods for sale to small screen shops and remodelers or retail directly to consumers.

Re: (14) Rather than a few major customers, Phifer has hundreds of customers. It would be virtually impossible to identify all indirect customers (see preceding paragraph). We will share our confidential customer list with you if you feel it is necessary.

Re: (15)a. Enclosed are copies of all reports of tests and studies conducted on odors and emissions from our polymer coated fiberglass screening products.

Re: (15)b. There are no engineering drawings, engineering change notices or material specifications relevant to the identified problem.

Re: (15)c. It is not clear exactly who first identified the problem. We had an increased number of product failures in 1989-91 which resulted in the free replacement of a lot of discolored material. In storing and examining this degraded material, we noticed that it had an unpleasant odor but no one reported adverse physical effects from these odors until we received a telephone call from Mrs. Carol Chase (6881 Vail Court, Clarkston, Michigan 48348) on October 21, 1991.

Re: (15)d. Soon after receiving the call from Mrs. Chase, we received a similar report from her neighbor, Mrs. Janna Hoff (6890 Sun Valley Drive, Clarkston, Michigan 48348), another consumer (Ms. Marion Steinberg, 17 Latimer Lane, Simsbury, Connecticut 06070) and from a SunScreen dealer in Phoenix whose employees reported irritation from the product after handling large quantities in an enclosed area. Copies of letters from those persons are enclosed along with all subsequent written correspondence on this matter.

Re: (15)e. Enclosed are samples of PhiferGlass insect screening and SunScreen solar screening packaged for retail sale.

Re: (15)f. Enclosed are Phifer brochures and small sample books on PhiferGlass and SunScreen.

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Re: (15)g. No general recall notice has been issued.

Respectfully submitted,

PHIFER WIRE PROCUTS, INC.

Charles E. Morgan

Charles E. Morgan
June 23, 1993

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JOHN A. HUBBARD

May 28, 1993

Mr. Charles Morgan
Executive Vice President and Corporate Counsel
Phifer Wire Products, Inc.
Tuscaloosa, Alabama 35403-1504

Re: Fox Run Limited Partnership v Weathervane Window, Inc.
Our File No. 20345

Dear Mr. Morgan:

As we discussed, enclosed please find three original duplicates of the Agreement between Fox Run Limited Partnership and Weathervane Window, Inc. and Phifer Wire Products, Inc. Please have these executed and return two originals to me. I will forward one to Mr. Franzinger and retain one for my files.

Thank you for your cooperation in this matter. If you should have any questions or concerns, please do not hesitate to contact me.

Sincerely,

SIMPSON & BERRY, P.C.


John A. Hubbard

COR:JAH:PE0283

enclosure

*Jean, please express mail
2 attached to Mr. John A. Hubbard
Don
6-1-93
59*

AGREEMENT

THIS AGREEMENT, dated this ____ day of May, 1993, entered into by and among **FOX RUN LIMITED PARTNERSHIP** and **FOX RUN CONDOMINIUM ASSOCIATION** (together the "Plaintiffs") and **WEATHERVANE WINDOW, INC.** a Michigan corporation ("**WEATHERVANE**") and **PHIFER WIRE PRODUCTS, INC.**, an Alabama corporation ("**PHIFER WIRE**") (Weathervane and Phifer Wire are together referred to as the "Defendants").

RECITALS

A. Fox Run Associates Limited Partnership is developing and owns a condominium development located in Oakland County, Michigan (the "Condominiums"). Fox Run Condominium Association is the association for the condominium owners. The Condominiums have been fitted with window screening (the "Screens") sold by Weathervane and containing components manufactured by Phifer Wire. One or more residents of the Condominiums have complained about alleged adverse effects from the Screens.

B. On February 16, 1993, Plaintiffs filed their Complaint against Weathervane and Phifer Wire in Oakland County Circuit Court, Case No. 93-449538-NP, ("Lawsuit") seeking alleged damages related to removal and replacement of the Screens.

C. The parties believe that it is in their mutual best interest to postpone and, if possible, avoid the expense and burden of litigation between themselves concerning the claims set forth in the Complaint, without prejudice to their legal rights and defenses.

D. There having been no adjudication on the merits in the Lawsuit, the parties desire to presently resolve this dispute and believe the terms and conditions set forth herein will provide an adequate basis for that resolution:

NOW, THEREFORE, in consideration of the recitals and the mutual covenants and agreements contained herein, the parties mutually agree as follows:

1. Replacement of Screens

a. Defendants agree, jointly and severally, to remove and replace the Screens at their sole cost and expense for all Condominiums for which there have been any complaints or problems regarding the Screens whatsoever as of the date of this Agreement.

b. Defendants agree, jointly and severally, to remove and replace the Screens at their sole cost and expense for all Condominiums for any complaints which may

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hereafter be received by any party to this Agreement that the Screens emit toxic, harmful or noxious odors or substances.

2. Indemnity

Defendants agree, jointly and severally, to indemnify and hold Plaintiffs, their officers, directors, partners, agents, representatives and attorneys, harmless from any and all claims for personal injury and/or property damage resulting in any way from the alleged emission of toxic, harmful or noxious odors or substances by the Screens or otherwise related to toxic, harmful or noxious materials or substances contained in or on the Screens.

3. Insurance

Weathervane and Phifer Wire agree, jointly and severally, to provide adequate and continuous insurance against, and assume the defense of, any and all claims against Plaintiffs, their officers, directors, partners, agents, representatives, or attorneys, for personal injury and/or property damage allegedly resulting in any way from the emission of toxic, harmful or noxious odors or substances by the Screens or otherwise related to toxic, harmful or noxious materials or substances contained in or on the Screens.

4. Dismissal of All Claims and Covenant Not to Sue

Plaintiffs shall cause all pending claims and lawsuits to be dismissed without prejudice as soon as practicable after execution of this Agreement, by filing the necessary documents with the Court, and shall provide both Weathervane and Phifer Wire with true copies of the order of dismissal upon its entry. Plaintiffs further covenant not to sue Weathervane or Phifer Wire based on any of the claims asserted by Plaintiffs and/or the subject matter of the Lawsuit, as long as defendants comply with the terms of this agreement; provided, however, that Plaintiffs shall have the right to sue Defendants for breach of this agreement or to enforce any of the terms of this agreement.

5. Tolling of Limitations

The running of all applicable statutes of limitations shall be tolled as of February 16, 1993, the date of filing of the Complaint. By like token, the period which shall elapse during the term of this Agreement may not be asserted by any party to this Agreement as included within any period of delay or inaction which would support a defense of laches.

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6. Successors and Assigns

This Agreement shall be binding upon and shall inure to the benefit of and be enforceable by the successors and assigns, and transferees by operation of law, of the parties to this Agreement.

7. Disputed Claims

All claims, past, present or future, are disputed and the execution of this Agreement shall in no way be treated or construed as an admission of liability or responsibility at any time or in any manner whatsoever by any party whatsoever.

8. Disclosure

No disclosure of the contents of this Agreement shall be made without the prior approval of each party to this Agreement. However, disclosure of the contents of this Agreement may be made (i) by the parties to their insurers, (ii) to attorneys and accountants for the parties on a "need to know" basis, (iii) pursuant to any applicable governmental laws, regulations or stock exchange regulations and (iv) pursuant to order of a court of competent jurisdiction or in response to any attempt by any person or court to take action that would be inconsistent with the provisions of this Agreement.

9. Advice Of Counsel

The parties represent and warrant to each other that they had the benefit of advice from attorneys chosen by them, respectively, before agreeing to the terms of this Agreement, that authorized representatives of each party signed this Agreement, having read same, fully understood the terms, contents and effect, and that their respective authorized representatives have relied fully and completely on their respective judgments in executing this Agreement.

10. Amendments

This Agreement may not be modified, amended, altered or supplemented except upon the execution and delivery of a written agreement executed by all of the parties hereto.

11. Applicable Law

This Agreement shall be governed by and construed in accordance with the provisions of the laws of the State of Michigan.

12. Reliance

No third party (other than an insurer for any of the parties) is entitled to rely on any of the representations, warranties or agreements of the parties contained in this Agreement. The parties to this Agreement assume no liability to any third party because of any reliance on the representations, warranties or agreements of the parties in this Agreement.

13. Validity Of The Agreement

The invalidity of any provisions of this Agreement as determined by a Court of competent jurisdiction shall in no way effect the validity of any other provision hereof. The terms of this Agreement are contractual and not a mere recital. It is further understood and agreed that no promises, representations, understandings or warranties have been made or extended by any party hereto, other than those which are expressly set forth in this Agreement, and that this Agreement contains the entire agreement between the parties relating to the rights and obligations therein.

14. Counterparts

This Agreement may be executed in any number of counterparts, and each counterpart shall be deemed to be an original instrument, but all counterparts shall together constitute, but one agreement.

15. Captions

Captions to paragraphs and subparagraphs of this Agreement have been included solely for the sake of convenient reference and are entirely without substantive effect.

16. Notice

Any notice to be given or served upon any party to this Agreement shall be deemed to have been given: (i) upon receipt in the event of personal service by actual delivery or facsimile receipt, so long as the facsimile transaction is completed between the hours of 9:00

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a.m. and 5:00 p.m., local time in the venue of receipt, on Monday through Friday (provided that such day is not a recognized holiday) and is simultaneously accompanied by written notice as provided in the following clause; or (ii) two days after posting if deposited in the United States mails with proper postage affixed and dispatched by certified mail or its equivalent, return receipt requested. All notices shall be given to the parties at the following address:

WEATHERVANE WINDOW, INC.

Attn: Gary T. Rose
Chief Executive Officer
5936 Ford Court
Brighton, Michigan 48116

PHIFER WIRE PRODUCTS, INC.

Attn: Charles E. Morgan, Esq.
Executive Vice President and Corporate Counsel
Phifer Wire Products, Inc.
Tuscaloosa, Alabama 35403-1504

**FOX RUN LIMITED PARTNERSHIP and
FOX RUN CONDOMINIUM ASSOCIATION**

Attn: James P. McLennan, Esq.
29516 Southfield Road
Suite 102
Southfield, Michigan 48076

IT WITNESS WHEREOF, the parties have executed this Agreement as their free acts and deeds this ____ day of May, 1993.

Phifer Wire Products, Inc.

By: Charles Morgan
Charles Morgan, Esq.
Its: General Counsel and Vice-President

Weathervane Window, Inc.

By: _____
Gary T. Rose
Its: Chief Executive Officer

Fox Run Limited Partnership
By: Fox Run Associates, Inc.
Its: General Partner

By: _____
James P. McLennan
Its: President

Fox Run Condominium Association

By: _____
James P. McLennan
Its: Agent

John A. Hubbard
Attorney for Plaintiffs

Robert J. Franzinger
Attorney for Weathervane Window, Inc.

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STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

FOX RUN ASSOCIATES LIMITED
PARTNERSHIP, a Michigan Limited
Partnership, and FOX RUN
CONDOMINIUM ASSOCIATION,

RECEIVED FOR FILING

93 FEB 16 P3:46



Plaintiffs,

CEP

v.

Case No.
Hon.

NP

WEATHERVANE WINDOWS, INC.,
a Michigan corporation, and
PHIFER WIRE PRODUCTS, INC.,
an Alabama corporation.

Defendants.

SIMPSON & BERRY, P.C.
By: John A. Hubbard (P39624)
Attorneys for Plaintiff
555 South Woodward
Fifth Floor North
Birmingham, Michigan 48009
Telephone: (313) 647-0200

There is no other civil action between these parties arising out of the same transaction or occurrence as alleged in this complaint pending in this court, nor has any such action been previously filed and dismissed or transferred after having been assigned to a judge.

COMPLAINT AND JURY TRIAL DEMAND

NOW COMES Plaintiffs, Fox Run Associates Limited Partnership, a Michigan limited partnership, and Fox Run Condominium Association (collectively "Fox Run"), by and through their attorneys, Simpson & Berry, and for their Complaint, state as follows:

I.

JURISDICTION

1. Plaintiff Fox Run Associates Limited Partnership, a Michigan limited partnership, (hereinafter "Plaintiff") is organized under the laws of the State of Michigan, having its principal place of business in the County of Oakland, State of Michigan.

2. Plaintiff Fox Run Condominium Association is organized under the laws of the State of Michigan with its principal place of business in the County of Oakland, State of Michigan.

3. Defendant Weathervane Windows, Inc. (hereinafter "Weathervane" or "Defendant"), is a corporation organized under the laws of the State of Michigan, having its principal place of business at 5936 Ford Court, Brighton, Michigan, and conducts business in the County of Oakland, State of Michigan.

4. Defendant Phifer Wire Products, Inc. (hereafter "Phifer" or "Defendant") is upon information and belief, a corporation organized under the laws of the State of Alabama, having its principal place of business in the State of Alabama, and conducts business in the County of Oakland, State of Michigan.

5. The amount in controversy in this action exceeds \$10,000.00, exclusive of costs and interest.

II.

GENERAL ALLEGATIONS

6. Defendant Weathervane was, at all times mentioned herein, engaged in the business of the design, manufacture, and sale of window systems for use in residential property.

7. Defendant Phifer was, at all times mentioned herein, engaged in the business of design, manufacture, and sale of insect screening to be incorporated in said Weathervane window systems.

8. Fox Run owns and manages a condominium development located in Oakland County, Michigan, commonly known as the Fox Run Condominiums. During the construction of Plaintiffs' buildings, Plaintiffs purchased and installed Weathervane window systems which contained Phifer insect screening.

9. Subsequently, Plaintiffs discovered that the Phifer insect screening incorporated in the Weathervane window system sold to Fox Run for installation in Plaintiffs' condominium units emits toxic fumes and odor which are harmful to humans when exposed thereto.

10. Plaintiffs have been and will be required to spend considerable sums for the analysis, removal, and replacement of the window systems containing the toxic insect screening,

including, but not limited to, testing, contract payments, purchasing, and installing new building materials.

III.

NEGLIGENCE

11. Plaintiffs incorporate by this reference their allegations set forth in paragraphs 1 through 10 as if fully set forth herein.

12. As designers and manufacturers of building products, Defendants had a duty to exercise due care and the ordinary, reasonable technical skill and competence that is required of such designers and manufacturers in similar situations.

13. Defendants failed to use due care under the circumstances. Defendants were thereby negligent in the performance of their duty to design and manufacture their building materials free from concealed defects and latent dangers or, in the alternative, to warn Plaintiffs of their products' dangerous character.

14. As a direct and proximate result of Defendants' negligence and breach of duty, Plaintiffs have been damaged.